

REMARKS

Claims 1-26 are pending in the present application. Claim 26 stands rejected under 35 USC §112. Claims 1, 3, 5, 6, 8, 11, 20, 21, and 23-25 stand rejected under 35 USC §102. Claims 2, 4, 7, 9, 10, 12-19, 22, and 26 stand rejected under 35 USC §103. Applicants have currently amended claims 1 and 26 to more particularly point out applicants' invention.

Drawings

The drawings clearly show a curved outside and a flat inside. If there is any doubt, please refer to the informal drawings, originally filed with the application, which include impermissible shading. Some of the detail from the shading is lost in the formal drawings conforming the USPTO rules.

35 USC §112.

The steps of releasing in claim 15 and in claim 26 are intended to be the same step. Therefore, applicants have amended claim 26 to provide "wherein said step of releasing is laterally releasing the electrode array through the open space".

35 USC §102.

The Examiner states that "Shippert discloses a surgical tool for implantation of an electrode array". Electrodes, either singly or in an array, are never mentioned in Shippert. Shippert discloses an applicator "for injecting or releasing a fluidic or solid substance into a cavity or tissue of a patient. Further, the Shippert device is open on the bottom to push out the substance with a plunger. Hence, it does not have a base substantially parallel to the top.

Applicant's have amended claim 1 to provide "an open space, suitable to receive and protect an electrode array". Applicants believe equivalent limitation already exist in the other independent claims.

35 USC §103.

The device a Hughes does not have radii to match the radius of the retina. It is merely sufficiently flexible to follow the curve of the retina when inserted into an eye. Hence, non of the claims are rendered obvious in light of Shippert and Higes.

Conclusion

In view of the above, reconsideration and allowance of all claims are respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, and the Examiner believes that a teleconference may be helpful, the Examiner is invited to call the undersigned attorney at (818) 833-5055 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is authorized to charge any additional fees, which may be required or credit overpayment to deposit account no. 50-0922. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-0922.

Respectfully submitted,

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